



Paul Nicoletti <pauljnicoletti@gmail.com>

Re: 1:13-cv-00205-WTL-MJD SIN20-1: Defendant must respond to our discovery 10/14/2013 OVERDUE; OC: Jonathan Phillips

Jonathan Phillips <jphillips@skplawyers.com>

Fri, Oct 18, 2013 at 12:48 AM

To: Paul Nicoletti <pauljnicoletti@gmail.com>

Paul,

Sorry. Didn't hear back to ensure the responses were 100% accurate. While I based off of what was provided, obviously, I am simply seeking confirmation of the appropriate facts/responses.

That said, I appreciate your forgiveness and your acknowledgement of generally being a day or two behind.

I'm fully certain with only a minute we'll not suffer any concerns with turnover.

Best,

Jonathan LA Phillips
Shay Kepple Phillips, Ltd.
Twin Towers Plaza
456 Fulton Street, Suite 255
Peoria, IL 61602
[309-494-6155](tel:309-494-6155)
[309-494-6156](tel:309-494-6156) (fax)

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On Thu, Oct 17, 2013 at 6:53 PM, Paul Nicoletti <pauljnicoletti@gmail.com> wrote:

Counsel, your discovery responses are overdue and you indicated I would have responses by today. In order to satisfy the Local Rule requirement, I am seeking your concurrence for a Motion to Compel Discovery Responses within 2 days. If you agree, we will prepare and file a stipulation and order in accordance with your consent. Please advise within 24 hours. Thank you.

Best Regards,
Law Offices of Nicoletti & Associates, PLLC
Paul Nicoletti (P-44419)
36880 Woodward Avenue, Suite 100
Bloomfield Hills, MI 48304
Landline: [\(248\) 203-7800](tel:248-203-7800)
Fax 1: [\(248\) 203-7801](tel:248-203-7801)
Fax 2: [\(248\) 928-7051](tel:248-928-7051)
Email: paul@nicoletti-associates.com

Website: www.nicoletti-associates.com



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Please consider the environment before printing this email



Paul Nicoletti <pauljnicoletti@gmail.com>

Tashiro; 1:13-cv-00205-WTL-MJD; SIN20-1 | ADDITIONAL DEVICES

Paul Nicoletti <pauljnicoletti@gmail.com>

Tue, Apr 8, 2014 at 7:01 PM

To: Jonathan Phillips <jphillips@skplawyers.com>

Bcc: LEB / Jessica Fernandez <jfernandez@lebfirm.com>, Kennedy Emilie <EKennedy@lebfirm.com>, jcooper <jcooper@lebfirm.com>, "Lipscomb, Eisenberg & Baker, PL" <copyright@lebfirm.com>

Jonathan,

It has been brought to my attention that there are a several hard drives/external devices that the defendant failed to disclose in discovery responses. Although there are numerous undisclosed devices, I am only including a list of the most important devices below. I find their connection to Kelley Tashiro's laptop on 12/23/2013 at 3:15 a.m. to be particularly alarming. **These external hard drives should have been disclosed and produced as part of your client's response to Request for Production Nos. 1 and 9.**

Even though Plaintiff's first set of discovery was served long ago, because this information just came to light, I can provide you with some time to discuss this with your client. However, I would appreciate a forensic copy of the following devices by April 18, 2014. If there is a misunderstanding on my end, I am open to any explanation your client may have. As you know, this failure to disclose is very serious, and I hope there is some reasonable justification for this action. Please discuss this with your client and get back to me as soon as possible.

Device Name: **WD 5000AAV External 1.65**

Serial Number or UID: 57442D574341535532393430383235

Last Written Time UTC (Disk Devices) Last Written Time UTC (USB Raw Devices): 12/23/2013 3:15:58 AM; 9/20/2012 1:34:38 AM; 2/14/2009 4:52 PM

Device Name : **WD My Passport 070A 1032**

Device Name Serial Number or UID: 57584530453939434B483535

Last Written Time UTC (Disk Devices) Last Written Time UTC (USB Raw Devices): 12/1/2011 4:17:39 AM

Device Name: **WDC WD40 0BB-00DEA0**

Serial Number or UID: 6&1b9475c&0&_____8

Last Written Time UTC (Disk Devices) Last Written Time UTC (USB Raw Devices): 12/23/2013 3:08:32 AM

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Paul Nicoletti <pauljnicoletti@gmail.com>

Re: Tashiro; 1:13-cv-00205-WTL-MJD; SIN20-1 | ADDITIONAL DEVICES

Jonathan Phillips <jphillips@skplawyers.com>
To: Paul Nicoletti <pauljnicoletti@gmail.com>

Tue, Apr 8, 2014 at 9:56 PM

Paul:

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To: Paul Nicoletti <pauljnicoletti@gmail.com>

Wed, Apr 9, 2014 at 12:21 PM

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Considering the patently absurd nature of the accusations (i.e. the impossibility of them) the unfounded threats of further spoliation and perjury allegations are not well taken. I would strongly suggest that you consult with Mr. Paige, Q-Discovery, and otherwise prior to filing any baseless supplements to Motions or further motions, as I will be holding you to your Rule 11 obligations.

Regards,

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Paul:

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Device Name Serial Number or UID: 57584530453939434B483535

Last Written Time UTC (Disk Devices) Last Written Time UTC (USB Raw Devices): 12/1/2011 4:17:39 AM

Device Name: **WDC WD40 0BB-00DEA0**

Serial Number or UID: 6&1b9475c&0&_____8

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Paul Nicoletti <paulnicoletti@gmail.com>

Re: Tashiro; 1:13-cv-00205-WTL-MJD; SIN20-1 | ADDITIONAL DEVICES

Jonathan Phillips <jphillips@skplawyers.com>
To: Paul Nicoletti <paulnicoletti@gmail.com>

Wed, Apr 9, 2014 at 3:40 PM

Paul:

They were not provided, because they do not exist, or at least to not known to exist by Kelley Tashiro. I understand that your client has no evidence that Tashiro infringed and is now grasping at any circumstantial evidence it can find, but I *strongly* suggest that you inquire with Q-Discovery to ensure that you meet your Rule 11 obligations. These devices are either something that QDiscovery plugged into the computer, or a drive that was disclosed. Perhaps your *assumption* of time is incorrect because the time reported is UTC or some other time zone other than Eastern. Its not my job to provide you advice to prevent a Rule 11 violation, but as a professional courtesy, I'm telling you that all ducks should be in a row, and all investigation had, because you're going down a wrong path here on bad information.

Regards,

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On Wed, Apr 9, 2014 at 2:28 PM, Paul Nicoletti <paulnicoletti@gmail.com> wrote:

Jonathan, if you look at the time of the connections, Kelley Tashiro has not even provided the other drives to QDiscovery. It would have been impossible for QDiscovery to be responsible for the "last written time" as specified. Keep in mind that the drives specified below are not the drives that were imaged by QDiscovery. More importantly, the drives below were connected to the Dell Inspiron (Kelley's Laptop) not the Gateway. You seem to be confused about that fact. In any event, I will treat your response as confirmation that the devices set forth below, no longer exist. I will proceed accordingly. Thank you.

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Email: paulnicoletti@gmail.com
<http://www.nicolettilawplc.com>



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